

Subpart U—Detention; Seizure and Condemnation; Criminal Offenses**§ 381.210 Poultry and other articles subject to administrative detention.**

Any poultry carcass, or part thereof; or any product made wholly or in part from any poultry carcass or part thereof; or any dead, dying, disabled, or diseased poultry is subject to detention for a period not to exceed 20 days when found by any authorized representative of the Secretary upon any premises where it is held for purposes of, or during or after distribution in commerce or otherwise subject to the Act, and there is reason to believe that any such poultry or other article is adulterated or misbranded and is capable of use as human food or has not been inspected, in violation of the provisions of the Act, any other Federal law, or the laws of any State or territory, or the District of Columbia; or that it has been or is intended to be distributed in violation of the provisions of the Act, any other Federal law, or the laws of any State or territory, or the District of Columbia.

§ 381.211 Method of detention; form of detention tag.

An authorized representative of the Secretary shall detain any poultry or other article to be detained under this subpart, by affixing an official “U.S. Detained” tag (FSIS Form 8400-2) to such article.

[55 FR 47843, Nov. 16, 1990]

§ 381.212 Notification of detention to the owner of the poultry or other article, or the owner's agent, and person having custody.

(a) When any poultry or other article is detained under this subpart, an authorized representative of the Secretary shall:

(1) Orally notify the immediate custodian of the poultry or other article detained, and

(2) Promptly furnish a copy of a completed “Notice of Detention” (FSIS Form 8080-1) to the immediate custodian of the detained poultry or other article.

(b) If the owner of the detained poultry or other article, or the owner's agent, is not the immediate custodian

at the time of detention and if the owner, or owner's agent, can be ascertained and notified, an authorized representative of the Secretary shall furnish a copy of the completed “Notice of Detention” to the owner, or the owner's agent. Such copy shall be served, as soon as possible, by delivering the notification to the owner, or the owner's agent, or by certifying and mailing the notification to the owner, or the owner's agent, at his or her last known residence or principal office or place of business.

[55 FR 47843, Nov. 16, 1990]

§ 381.213 Notification of governmental authorities having jurisdiction over article detained; form of written notification.

Within 48 hours after the detention of any poultry or other article pursuant to § 381.211, an authorized representative of the Secretary shall give oral or written notification of such detention to any Federal authorities not connected with the Inspection Service, and any State or other governmental authorities, having jurisdiction over such article. In the event notification is given orally, it shall be confirmed in writing, as promptly as circumstances permit.

§ 381.214 Movement of poultry or other article detained; removal of official marks.

(a) No poultry or other article detained in accordance with the provisions in this subpart shall be moved by any person from the place at which it is located when so detained, until released by an authorized representative of the Secretary: *Provided*, That any such article may be moved from the place at which it is located when so detained, for refrigeration or freezing, or storage purposes if such movement has been approved by an authorized representative of the Secretary and the article so moved will be further detained by an authorized representative of the Secretary after such movement.

(b) Upon terminating the detention of such article, an authorized representative of the Secretary shall:

(1) Orally notify the immediate custodian of the released article, and

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(2) Furnish copies of a completed "Notice of Termination of Detention" (FSIS Form 8400-1) to the persons notified when the article was detained. The notice shall be served by either delivering the notice to such persons or by certifying and mailing the notice to such persons at their last known residences or principal offices or places of business.

(c) All official marks may be required by such representative to be removed from such article before it is released unless it appears to the satisfaction of the representative that the article is eligible to retain such marks.

[37 FR 9706, May 16, 1972, as amended at 55 FR 47843, Nov. 16, 1990]

§ 381.215 Poultry or other articles subject to judicial seizure and condemnation.

Any poultry carcass, or part thereof, or any product made wholly or in part from any poultry carcass or part thereof; except those exempted from the definition of a poultry product in § 381.15, or any dead, dying, disabled, or diseased poultry, that is being transported in commerce or is otherwise subject to the Act, or is held for sale in the United States after such transportation, is subject to seizure and condemnation, in a judicial proceeding pursuant to section 20 of the Act if such poultry or other article:

(a) Is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of the Act; or

(b) Is capable of use as human food and is adulterated or misbranded; or

(c) In any other way is in violation of the Act.

§ 381.216 Procedure for judicial seizure, condemnation, and disposition.

Any poultry or other article subject to seizure and condemnation under this subpart is liable to be proceeded against and seized and condemned, and disposed of, at any time, on an appropriate pleading in any U.S. district court, or other proper court specified in section 21 of the Act, within the jurisdiction of which the article is found.

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§ 381.217 Authority for condemnation or seizure under other provisions of law.

The provisions of this subpart relating to detention, seizure, condemnation and disposition of poultry or other articles do not derogate from authority for retention, condemnation, or seizure conferred by other provisions of the Act, or other laws.

§ 381.218 Criminal offenses.

The Act contains criminal provisions with respect to numerous offenses specified in the Act, including but not limited to forcible assaults on, or other interference with, any person while engaged in, or on account of the performance of, his official duties under the Act. Criminal provisions with respect to gifts or offers of bribes to such persons and related offenses are contained in the general criminal code (18 U.S.C. 201).

Subpart V—Special Provisions for Designated States and Territories; Criteria and Procedure for Designating Establishments With Operations Which Would Clearly Endanger the Public Health; Disposition of Poultry Products Therein

§ 381.220 Definition of "State".

For purposes of this subpart, the term "State" means any State (including the Commonwealth of Puerto Rico) or organized territory.

§ 381.221 Designation of States under paragraph 5(c) of the Act.

Each of the following States has been designated, under paragraph 5(c) of the Act, as a State in which the provisions of sections 1 through 4, 6 through 10, and 12 through 22 of the Act shall apply to operations and transactions wholly within the State. The Federal provisions apply, effective on the dates shown below:

States	Effective date of application of Federal provisions
Alaska	July 31, 1999.
Arkansas	Jan. 2, 1971.
California	Apr. 1, 1976.